

MEMORANDUM

August 4, 2004

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: LAUREN M. BLACK
Deputy County Counsel
General Litigation Division

RE: Monique Hernandez v. County of Los Angeles, et al.
Los Angeles Superior Court Case No. BC300660

DATE OF
INCIDENT: October 2001 through February 2003

AUTHORITY
REQUESTED: \$37,500


COUNTY
DEPARTMENT: Department of Regional Planning

CLAIMS BOARD ACTION:

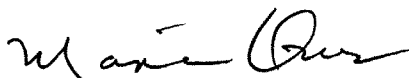
☒ Approve

☐ Disapprove

☐ Recommend to Board of
Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on August 16, 2004

SUMMARY

This is a recommendation to settle for \$37,500, a lawsuit filed by Monique Hernandez, a Secretary II with the Department of Regional Planning, which alleges that she was sexually harassed by her supervisor over a two-year period.

LEGAL PRINCIPLES

The County of Los Angeles is strictly liable for a supervisor's sexual harassment where the offensive conduct is sufficiently pervasive so as to alter an employee's environment, and create an abusive working environment (hostile work environment). In addition, the County may be liable for harassment, and for a hostile work environment where an agent or supervisor of the County knows or should know of the offensive conduct, and fails to take immediate and appropriate corrective action.

When an employee prevails in a lawsuit brought under the Fair Employment and Housing Act, the employee is entitled to an award of attorney fees.

SUMMARY OF FACTS

Monique Hernandez began working for the Department of Regional Planning in August 1998. Beginning in October 2001, Ms. Hernandez claims that she was subjected to sexual harassment by her supervisor. Ms. Hernandez alleges that the harassing conduct continued until February 2003.

Ms. Hernandez alleges that during her employment she was subjected to leering, inappropriate touching, and work requests solely calculated to keep her in close physical proximity with her supervisor. Ms. Hernandez alleges that she repeatedly complained of the harassment to a senior supervisor without result.

Ms. Hernandez claims she has been unable to work since February 2003, as a direct result of the emotional injuries sustained from the conduct which gives rise to this lawsuit.

DAMAGES

Ms. Hernandez alleges that she suffered depression, anxiety, and various psychosomatic symptoms as a result of the alleged sexual harassment. Ms. Hernandez has not returned to work since February 2003. Ms. Hernandez was earning \$37,154 a year as a Secretary II before she went out on stress leave.

Should this matter proceed to trial we estimate the potential damages are as follows:

Emotional Distress	\$150,000
Loss of Earnings	\$ 55,731
Attorney Fees	<u>\$150,000</u>
Total	<u><u>\$355,731</u></u>

The settlement calls for the County to pay \$37,500 for all claims, damages, costs, and attorney fees.

STATUS OF CASE

The trial in this matter is set for October 4, 2004. The total expenses incurred in the defense of this matter to date are attorney fees of \$47,416 and \$1,609 in costs.

EVALUATION

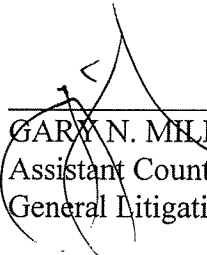
This is a case of potential liability. Sexual harassment cases often turn on difficult questions of witness credibility.

In light of the principles of strict liability for supervisor harassment, this case presents the County with significant exposure. Although the supervisor denies any wrongdoing, a jury could conclude that the supervisor's conduct did cause the alleged emotional distress, and did cause Monique Hernandez to leave her job and suffer emotional injury.

A jury award could far exceed the recommended settlement offer. Further, under state law, if Monique Hernandez were to prevail at trial, she would be entitled to an award of attorney fees. Therefore, we believe that the best interest of the County of Los Angeles would be served by settling this case for \$37,500. As part of the settlement, Ms. Hernandez has agreed to resign from her position with the County.

The Department of Regional Planning joins in this settlement recommendation.

APPROVED:



GARY N. MILLER
Assistant County Counsel
General Litigation Division

GNM:pec